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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/595,637

05/02/2006

Philippe Desbois

12810-00247-US1

3877

30678

7590

02/02/2009

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EXAMINER

MCULLEY, MEGAN CASSANDRA

ART UNIT

PAPER NUMBER

1796

MAIL DATE

DELIVERY MODE

02/02/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Response to Arguments

Applicant's arguments filed January 15, 2009 have been fully considered but they are not persuasive, because:

A) Applicant's argument that the present invention is different than the disclosure of Braune et al. since Braune et al. requires the combination of a bi-aluminum compound with the claimed mono-aluminum to affect the polymerization is not persuasive. A bi-aluminum is not excluded by the claim language. The limitations of the instant claim are met since the polymerization takes place *in the presence* of a quaternary ammonium compound of the formula found in the previous Office Action in combination with a mononuclear organylaluminum compound. Other components are not excluded by the current claim language.

B) Applicant's argument that the preparation and isolation of the compounds of Braune et al. is costly and complicated while yielding lower molecular weight polymers is not persuasive and not germane since these properties are not claimed.

C) In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Megan McCulley whose telephone number is (571)270-3292. The examiner can normally be reached on Monday - Friday 7:30-5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Eashoo can be reached on (571) 272-1197. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark Eashoo/
Supervisory Patent Examiner, Art Unit 1796

/M. M./
Examiner, Art Unit 1796